TAXABLE YEAR

2009 New Jobs Credit

CALIFORNIA FORM

3527

Attach to your California tax return.

Name(s) as shown on your California tax return

☐ SSN or ITIN ☐ Corporation no. ☐ FEIN

Secretary of State (SOS) file number

Credit Computation

~~1 Number of qualified employees employed in the preceding taxable year (2008).~~ . . . .

~~2 Number of qualified employees employed in the current taxable year (2009).~~ . . . .

~~3 Net increase in qualified employees. Subtract line 1 from line 2. If the amount on line 3 is zero or less, you do not qualify for the credit~~ . . . .

~~How many qualified employees on line 3 were employed for less than a year?~~

~~4 Total available new Jobs credit. Multiply line 3 by $3,000. The credit is pro-rated for any qualified employees from line 3 that were employed less than a full year, complete the worksheet in the line instructions~~ . . . . .

~~5 Enter the amount of credit claimed on your current tax return. This amount may be less than the amount on line 4, if your credit is more than your tax liability. See instructions~~ . . . .

~~6 Credit carryover available for future years. Subtract line 5 from line 4.~~ . . . .

General Information

A Purpose

~~Form FTB 3527 New Jobs Credit provides a credit against tax to qualified employers in the amount of $3,000 for each increase in qualified full-time employee hired in the current taxable year. The Franchise Tax Board will allocate the credit on a first-come first-served basis. The total amount of credit that can be allocated by the FTB may not exceed four hundred million dollars ($400,000,000).~~

~~The credit must be claimed against the net tax on a timely filed return.~~

B Qualifications

Qualified employers must have employed 20 or less employees on the last day of the preceding taxable year and must have a net increase in qualified full-time employees in the current year compared to the number in the preceding taxable year. For employers who first commenced doing business in California during the taxable year, the number of qualified full-time employees for the immediately preceding taxable year would be zero.

In determining whether the taxpayer has first commenced doing business in this state during the taxable year, the following rules apply:

- Where a taxpayer or partnership purchases or otherwise acquires all or any portion of the assets of an existing trade or business that is doing business in this state, the trade or business thereafter conducted by the taxpayer (or any related person) shall not be treated as a new business if the aggregate fair market value of the acquired assets used by the taxpayer (or any related person) in the conduct of its trade or business exceeds 20 ~~percent~~ of the aggregate fair market value of the total assets of the trade or business being conducted by the taxpayer (or any related person).
- Where a taxpayer(or any related person) is engaged in one or more trade or business activities in this state, or has been engaged in one or more trade or business activities in this state within the preceding 36 months ("prior trade or business activity"), and thereafter commences an additional trade or business activity in this state, the additional trade or business activity shall only be treated as a new business if the additional trade or business activity is classified under a different division of the Standard Industrial Classification (SIC) Manual (1987 edition), than are any of the taxpayer's (or any related persons) current or prior trade or business activities.
- Where a taxpayer or partnership, including all related persons, is engaged in trade or business activities wholly outside of this state and the taxpayer first commences doing business in this state after December 31, 1993 (other than by purchase or other acquisition described in paragraph ~~(1)~~), the trade or business activity shall be treated as a new business under R&TC Section 17276(e)(2).
- Where the legal form under which a trade or business activity is being conducted is changed, the change in form shall be disregarded and the determination of whether the trade or business activity is a new business shall be made by treating the taxpayer or partnership as having purchased or otherwise acquired all or any portion of the assets of an existing trade or business under the rules of paragraph ~~(1)~~.

For more information on these rules, see Legal Ruling 96-5 and 99-2, and R&TC Section 17276(f) ~~&~~ 24416(g).

The $3,000 credit is ~~pro-rated~~ based on an annual full-time equivalent basis for full-time employees employed less than a full year. See Definitions and R&TC Sections 17053.80 ~~&~~ 23623 for more information.

~~The credit is not subject to the 50% limitation for business credits under Sections 17039.2 and 23036.2.~~

~~C~~ Definitions

Qualified Employer ~~means~~: An employer that, as of the last day of the preceding taxable year employed a total of 20~~,~~ or fewer employees~~, and that has a net increase in qualified full-time employees in the current taxable year compared to the number of employees in the preceding taxable year.~~

Qualified Full-time Employee ~~means~~:

- A qualified employee who was paid qualified wages by the qualified employer for services of not less than an average of 35 hours per week.
- A qualified employee who was a salaried employee and was paid compensation during the taxable year for full-time employment, within the meaning of Section 515 of the Labor Code, by the qualified employer.

Qualified wages ~~means~~: Wages subject to Div. 6 (commencing with section 13000) of the Unemployment Insurance Code.

Annual Full-time Equivalent ~~means either of the following~~:

- In the case of a full-time employee paid hourly qualified wages, the total number of hours worked for the taxpayer by the employee (not to exceed 2,000 hours per employee) divided by 2,000.

- In the case of a salaried full-time employee, the total number of weeks worked for the taxpayer by the employee divided by 52.

Net Increase in Qualified Full-time Employees: Is determined by comparing the number of full-time employees employed by the taxpayer in the current taxable year with the number of qualified full-time employees that were employed by the taxpayer in the preceding taxable year.

~~D~~ Limitations

The credit is limited to $3,000 per qualified employee and is limited further by being ~~pro-rated~~ on an annual full-time equivalent basis for employees employed less than a full year. See General Information ~~C~~, Definitions.

~~An employer may not claim the credit for those employees who are any of the following:~~

- ~~Certified as a qualified employee in an enterprise zone or targeted tax area.~~
- ~~Certified as a qualified disadvantaged individual in a manufacturing enhancement area.~~
- ~~Certified as a qualified disadvantaged individual or qualified displaced employee in a local agency military base recovery area.~~
- ~~An employee whose wages are included in calculating any other credit allowed.~~

~~The FTB will allocate the credit on a first-come first-served basis. The total amount of credit that can be allocated by the FTB may not exceed four hundred million dollars ($400,000,000).~~

~~We will post a notice on our website at **ftb.ca.gov** when the credit has been fully allocated, we will post a cut-off date and only returns filed by the last day of the cut-off date will qualify to claim the credit.~~

~~Additionally, any disallowance of the credit due to the cumulative total of the credit being reached would be treated as a math error, and would not be subject to a review in any administrative or judicial proceeding.~~

This credit does not reduce any other deduction for qualified wages.

S corporations may claim only 1/3 of the credit against the 1.5% entity level tax (3.5% for financial S corporations). The remaining 2/3 must be disregarded and may not be used as a carryover. S corporations can pass through 100% of the credit to their shareholders. If a taxpayer owns an interest in a disregarded business entity [a single member limited liability company (SMLLC) not recognized by California, and for tax purposes is treated as a sole proprietorship owned by an individual or a branch owned by a corporation], the usable credit amount received from the disregarded entity is limited to the difference between the taxpayer's regular tax figured with the income of the disregarded entity, and the taxpayer's regular tax figured without the income of the disregarded entity. An SMLLC may be disregarded as an entity separate from its owner, and subject to certain statutory provisions that recognize otherwise disregarded entities for certain purposes, for example:

- The tax and fee of an LLC
- The return filing requirements of an LLC
- The credit limitations

Get Form 568, Limited Liability Company Tax booklet, for more information.

This credit cannot reduce the regular tax below the minimum franchise tax (corporations and S corporations), the annual tax (limited partnerships, limited liability partnerships, and LLCs classified as a partnership), the alternative minimum tax (corporations, exempt organizations, individuals, and fiduciaries), the built-in gains tax (S corporations), or the excess net passive income tax (S corporations). This credit cannot reduce regular tax below the tentative minimum tax (TMT). Get Schedule P (100, 100W, 540, or 541), Alternative Minimum Tax and Credit Limitations, for more information.

~~E~~ ~~Claiming the Credit~~

~~The credit is claimed against the net tax on a timely filed return.~~

~~**This credit is not refundable.**~~

~~F~~ Carryover

If the available credit exceeds the current year tax liability, the unused credit may be carried over for eight years or until the credit is exhausted, whichever occurs first. Apply the carryover to the earliest taxable year(s) possible. In no event can the credit be carried back and applied against a prior year's tax.

If you have a carryover, retain all records that document this credit and carryover used in prior years. The FTB may require access to these records.

Specific Line Instructions

~~**Line 1** – Enter the number of qualified full-time employees you employed in the preceding taxable year. For taxpayers who first commenced doing business in the state during the current taxable year, the number of qualified employees for the immediately preceding taxable year would be zero. Also see the rules under Qualifications for determining if your business first commenced during the current taxable year.~~

~~**Line 2** – Enter the number of qualified full-time employees you employed in the current taxable year.~~

~~**Line 4** – Complete the worksheet on page # to compute the total amount of credit for all qualified employees who are part of the net increase in employees. For any qualified employees hired for less than a year, the credit is pro-rated based on an annual full-time equivalent basis for each employee.~~

~~For hourly employees, the credit is pro-rated by multiplying $3,000 by a fraction, the numerator being the number of hours worked by the employee (not to exceed 2,000), and the denominator being 2,000.~~

~~**Example:** James is employed by Company P on a full-time hourly basis and meets the requirements of a qualified full-time employee. He worked for 1500 hours during the current taxable year. The total amount of credit Company P may claim for James is calculated as follows:~~

~~1,500 hours/2,000 hours x $3,000 = $2,250~~

~~For salaried employees, the credit is pro-rated by multiplying $3,000 by a fraction, the numerator being the number of weeks worked by the employee, and the denominator being 52.~~

~~**Example:** Jordan is also employed by Company P, but is a salaried employee. He meets the requirements of a qualified full-time employee. He worked for 40 weeks during the current taxable year. The total amount of credit Company P may claim for Jordan is calculated as follows:~~

~~40 weeks/52 weeks x $3,000 = $2,308~~

~~**Line 5** – The amount of this credit you can claim on your tax return may be limited further. Refer~~

~~to the credit instructions in your tax booklet for more information. The instructions also explain how to claim this credit on your tax return. Use credit code number 220 when you claim this credit. See General Information D, Limitations. Enter this amount on Form 100, line ##; Form 100S, line ##; Form 109, line ##; Form 540, line ##; Form 540A, line ##; and Form 541, line ##.~~